

1 NICOLA T. HANNA
United States Attorney
2 DAVID M. HARRIS
Assistant United States Attorney
3 Chief, Civil Division
JOANNE S. OSINOFF
4 Assistant United States Attorney
Chief, General Civil Section
5 Federal Building, Suite 7516
300 North Los Angeles Street
6 Los Angeles, California 90012
Telephone: (213) 894-8817
7 Facsimile: (213) 894-7819
E-mail: David.M.Harris@usdoj.gov
8

Attorneys for Defendant
9 UNITED STATES DEPARTMENT OF HOMELAND SECURITY

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION
13

14 ACLU OF SOUTHERN
CALIFORNIA,

15 Plaintiff,

16 v.

17 UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,
18

19 Defendants.
20

No. CV 18-08917-JAK

**FEDERAL DEFENDANT'S *EX PARTE*
APPLICATION FOR A STAY OF THE
ENTIRE CASE DUE TO THE LAPSE
OF APPROPRIATIONS;
DECLARATION OF DAVID M.
HARRIS**

[Local Rule 7-19]

Honorable John A. Kronstadt

1 Undersigned counsel, on behalf of Federal Defendants, apply *ex parte* for an order
2 staying the entire case due to the lapse of appropriations.

3 1. At the end of the day on December 21, 2018, the appropriations act that had
4 been funding the Department of Justice (“Department”), of which the U.S. Attorney’s
5 Office is a component, expired; the expiration resulted in a lapse of appropriations to the
6 Department. The Department does not know when funding will be restored by
7 Congress.

8 2. Absent an appropriation, Department attorneys are prohibited from
9 working, even on a voluntary basis, except in limited circumstances, such as
10 “emergencies involving the safety of human life or the protection of property.” 31
11 U.S.C. § 1342.

12 3. A cursory review of the file indicates that defendants’ Answer is due on
13 February 15, 2019. At this point it is not known whether funding will be restored in
14 sufficient time for the U.S. Attorney’s Office to timely file defendants’ Answer.

15 4. Undersigned counsel for the Department of Justice therefore requests a stay
16 of the entire case until Congress has restored appropriations to the Department.

17 5. Pursuant to Local Rule 7-19.1, notice of this *Ex Parte* Application was
18 given to Matthew D. Strugar, plaintiff’s counsel, by email. On December 27, 2018,
19 Matthew D. Struger, responded by email, stating that he does not oppose the Federal
20 Defendant’s *Ex Parte* Application.

21 Therefore, although the United States greatly regrets any disruption caused to the
22 Court and the other litigants, the Federal Defendant hereby moves for a stay of the entire
23 case due to the lapse in appropriations until Department attorneys are permitted to
24 resume their usual civil litigation functions.

1 Dated: 12/27/2018

Respectfully submitted,

2 NICOLA T. HANNA
United States Attorney
3 DAVID M. HARRIS
Assistant United States Attorney
4 Chief, Civil Division
5 JOANNE S. OSINOFF
Assistant United States Attorney
6 Chief, General Civil Section

7
8 /s/ David M. Harris

9 DAVID M. HARRIS
Assistant United States Attorney
10 Chief, Civil Division

11 Attorneys for Defendants
UNITED STATES DEPARTMENT OF
12 HOMELAND SECURITY
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DECLARATION OF DAVID M. HARRIS

I, David M. Harris, declare:

1. I am an Assistant United States Attorney and the Chief of the Civil Division of the United States Attorney's Office.

2. I am informed and believe that Contract Attorney Mari Zang notified plaintiff's counsel of this ex parte application by email.

3. I am informed by Contract Attorney Mari Zang and believe that on December 27, 2018, plaintiff's counsel in this action sent Mari Zang an email stating that he did not oppose this ex parte application.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27th day of December at Los Angeles, California.

/s/ David M. Harris

David M. Harris